

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

)
HARTFORD FIRE INSURANCE COMPANY)
)
Plaintiff,)
)
v.)
)
THE TOWN OF WESTON)
)
Defendant and)
Plaintiff in)
Counterclaim,) CIVIL ACTION NO. 05-CV-11166-EFH
)
v.)
)
JAN FIVE CORP. d/b/a ALEXANDRA)
CONSTRUCTION)
)
Defendant in)
Counterclaim,)
and)
)
THE DESIGN PARTNERSHIP OF)
CAMBRIDGE)
)
Third-Party)
Defendant.)
)

**THE TOWN OF WESTON'S
EXPERT DISCLOSURE STATEMENT**

Pursuant to Fed. R. Civ. P. 26(a)(2), The Town of Weston ("Weston"), makes the following expert witness disclosures:

AFFIRMATIVE EXPERT WITNESS:

1. Weston designates Mr. Colin G. Simson vice president at the firm of Thornton Tomasetti in Boston as an expert in this matter.

2. Attached hereto as Exhibits A is a copy of Mr. Simson's *curriculum vitae*.

3. Due to the Counterclaim Defendant Jan Five Corp. d/b/a Alexandra

Construction's ("Alexandra") failure to produce documents in discovery until just two (2) weeks ago and the Plaintiff's complete failure to produce documents, Mr. Simson was unable to complete an expert report. This Disclosure Statement will be supplemented to include that report as soon as it becomes available.

4. Mr. Simson's expert opinion is that Alexandra's performance on the Project known as the Additions and Renovations to the Country and Woodland Schools ("Project") exhibited inexperienced, incompetent and sloppy workmanship and an unprofessional, indifferent attitude towards quality control. It is Mr. Simson's further opinion that with respect to the exterior walls on the Project, that among other things, misaligned and mis-located foundation walls, improperly installed exterior wall panels and window systems, missing and misaligned flashing and improperly installed sealant caused, among other things, gaps between systems, gaps between elements of the same system and missing or failed systems. Mr. Simson's opinion is that the primary consequence of these construction defects is increased air and water infiltration. Mr. Simson also opines that a further consequence of the exterior wall defects include, but are not limited to, higher risk for mold infestation and damage to interior finishes and portions of the Project.

5. Mr. Simson's further opinion is that with respect to the roofs of the Project, Alexandra's inexperienced, incompetent and sloppy workmanship and unprofessional, indifferent attitude towards quality control was exhibited in part by improper installation of tapered insulation, lack of proper crickets and a failure to follow the architectural details. Mr. Simson also opines that the primary result of the roofing defects was to create areas of ponded

water that remain ponded for extended periods of time. Mr. Simson's opinion is that such ponding does not comport with the Massachusetts Building Code or with industry standards. Mr. Simson also opines that among other things, water remaining in contact with roof membrane seams will deteriorate the adhesion of the roof seam and cause leakage over time.

6. In forming his opinion, Mr. Simson relied on the available Project records of the Town of Weston and architectural plans and project specifications prepared by the Project architect, The Design Partnership of Cambridge ("TDPC"). Mr. Simson also met with representatives of TDPC to review and discuss the plans and specifications. Mr. Simson also visited the Project site on several occasions to review the various defective construction conditions.

7. Mr. Simson was and will be compensated for his work at a rate of \$205 per hour and reimbursed for out-of-pocket expenses on a cost plus 10% basis.

8. The prior expert witness testimony of Mr. Simson is included in his *curriculum vitae*, attached hereto as Exhibit A.

OBJECTION AND REBUTTAL EXPERT WITNESS(ES)

No other party in this action has submitted Expert Disclosure Statements and/or reports, and the deadlines for such submittals have expired. As such, Weston hereby objects to any potential expert witness or report proffered by any of the parties at this late date.

As no other party has provided Expert Disclosure Statements, Weston is unable to identify rebuttal witnesses and/or describe intended rebuttal testimony. Weston reserves the right to supplement this Disclosure Statement and retain rebuttal experts in the event that any party is allowed to proffer experts after the expiration of the deadlines.

Weston further reserves the right to supplement this Disclosure Statement in the event that further information is discovered in the documents recently produced by Alexandra and/or the documents to be produced by the Plaintiff or any other party.

Respectfully submitted,
THE TOWN OF WESTON
By its Attorneys,

/s/ Jonathan R. Hausner

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CERTIFICATE OF SERVICE

I, Jonathan R. Hausner, hereby certify that on this 31st day of August, 2007, I served a copy of The Town of Weston's Expert Disclosure Statement via electronic filing upon counsel of record in this matter.

/s/ Jonathan R. Hausner
Jonathan R. Hausner

Colin G. Simson, P.E.

Vice President, Thornton Tomasetti

Education

- ▶ BSCE, Tufts University, 1970
- ▶ MSCE, Tufts University, 1971

Registrations

- ▶ Registered Professional Engineer in Massachusetts, New Hampshire, Maine, Rhode Island and Kentucky

Professional Activities

- ▶ Past President, Massachusetts Building Congress
- ▶ Member, American Society of Civil Engineers
- ▶ Member, Boston Society of Civil Engineers Section, ASCE
- ▶ Member, American Concrete Institute
- ▶ Member, New England Chapter of ACI
- ▶ Professional Member, American Institute of Steel Construction

Mr. Simson's structural engineering experience encompasses a wide variety of building issues, with a practice that includes traditional structural engineering design for new construction and renovation projects. He has extensive experience in the design of institutional, commercial, high-tech and educational facilities; structural engineering and consulting on historic structures and similar building projects requiring sensitive solutions; investigation of building failures and technical assistance with related legal matters; investigation and design of repairs for building material and building envelope problems, including masonry, roofing and waterproofing.

Representative Project Experience

- **Fletcher Allen Health Care**, Burlington, VT. Structural investigation and review of construction issues at the recently completed post-tensioned concrete underground parking structure, which is a part of this new multi-building health care complex.
- **Harvard University Museum of Comparative Zoology**, Cambridge, MA. Structural due diligence investigation of the six contiguous buildings of this historic complex of buildings, built between 1859 and 1906, housing the Mueum and collections the Harvard MCZ, to determine the structural feasibility for proposed future renovations and reuses.
- **Harvard – Smithsonian Center for Astrophysics**, Cambridge, MA. Structural due diligence investigation of the precast-prestressed concrete Library buidling in this 1970 complex for the installation of new compact shelving systems.
- **Old State House**, Boston, MA. Review of conditions and structural design of repairs to restore portions of this historic 1713 brick masonry and wood-framed landmark for the Bostonian Society.
- **Quabbin Resort Development**, Belchertown, MA. Structural and exterior envelope investigation of 33 historic existing buildings on the campus of the former Belchertown State School, as part of the proposed redevelopment of this abandoned property into a destination resort.
- **One Federal Street**, Boston, MA. Several structural and building envelope investigations to upgrade and renovate One Federal Street for Tishman Speyer. Investigations include preplacement of podium cladding and investigation existing lobby levels and garage levels for new lobby features and additional elevators.
- **Massachusetts General Hospital**, Boston, MA. Investigation and design of new limestone cladding for an addition and renovation of the historic Phillips House portion of the MGH complex.

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- **Harvard University Museum**, Cambridge, MA. Multi-disciplined investigation of structure and building systems of this complex of buildings, built between 1859 and 1968, for the Harvard Department of Organismic and Evolutionary Biology, to increase the storage capacity for their collections of various biological specimens.
- **Thundermist Health Center**, Woonsocket, RI. Structural design and exterior envelope design for the renovation and addition to an existing three-story, office facility to transform it into a modern health care facility.
- **Middlesex Hospital**, Middletown, CT. Investigation of a new laboratory addition to the hospital, under construction, to correct curtain wall and HVAC system problems.
- **One Federal Street**, Boston, MA. Structural and exterior envelope investigation and due diligence review, including development of repair scope for this his 39-story prominent Boston office building, the former home of Shawmut Bank.
- **One Ashburton Place**, Boston, MA. Structural investigation of existing framing design of structural reinforcing for the installation of new compact shelving systems.
- **Cardinal Cushing Center**, Saint Mary High School, Lynn, MA. Investigation and repair of exterior concrete encasement and brick cladding of this high school gymnasium and classroom wing.
- **Saint Mary Parish Center**, Southbridge, MA. Multi-disciplined investigation of egress, structure, building systems and building envelope at a partially completed parish center, abandoned by the contractor during construction.
- **Saint John Church**, Worcester, MA. Investigation of ceiling collapse in this historic church, built in 1846. Services included salvage of all original historic structure, while designing and integrating a modern, safe, ceiling system to match the original curved ceiling.
- **Sosua Bay Resort**, Dominican Republic. Investigation of structural light-gauge steel framed structures at this resort involving a dispute between the owner, steel fabricator and his structural engineer.
- **John Hancock Tower**, Boston, MA. Structural renovations to the 59th and 60th Floors of this Boston landmark, as part of architecturally transforming the top two floor levels.
- **Gillette Stadium**, Foxborough, MA. Structural design and exterior envelope design for the renovation and addition of the upper and lower suites levels to create additional suites at the home of the New England Patriots and New England Revolution.

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- **New Retail Building**, 270 Trapelo Road, Belmont, MA. Structural design and exterior envelope design of a new one-story, 25,000 SF high bay retail facility.
- **Investigation of Structural and Building Envelope Damage**, Corbin, KY. Structural and building envelope investigation after an explosion at a one-story 300,000 SF existing industrial facility.
- **Additions and Renovation to Kraft Residence**, Chestnut Hill, MA. Structural design of function room, gymnasium and garage additions and renovation of the existing residence of the owner of the New England Patriots.
- **Structural Investigation of Holyoke Mall Parking Structure**, Holyoke, MA. Investigation of an existing 800,000 SF parking structure and its connections.
- **225 Franklin Street**, Boston, MA. Structural and exterior envelope investigation and due diligence review, including development of repair scope for this 35-story office building, the former home of State Street Bank.
- **Longwood Towers**, Brookline, MA. Structural and building envelope investigation of an existing 300,000 SF residential complex consisting of three 8-story towers.
- **The Breakers**, Newport, RI. Structural and material investigation of existing underground vaults for conversion for a new visitor's center.
- **Ray and Maria Stata Center - MIT**, Cambridge, MA. Services included providing masonry and waterproofing consulting and revision and coordination of details for inward and outward sloping walls of this complex Frank O. Gehry designed facility.
- **Clybourn Technology Center**, Chicago, Illinois. Structural renovation and retrofit of an existing 325,000 SF, 5½ -story existing warehouse building to a 440,000, 7-story telecommunications facility.
- **Lucent Technologies**, Westford, Massachusetts. Structural design of a new 160,000 SF two-story research, development and administrative headquarters building.
- **Nortel Networks Systems House (Building #1) and Coretek Division (Building #2)**, Billerica, Massachusetts. Structural renovation and retrofit of existing 110,000 SF and 155,000 SF facilities for this telecommunications facility.
- **Minot Hall**, Roxbury, Massachusetts. Structural renovation and retrofit of an existing 17,500 SF five-story brick masonry building combining it with a new 70,000 SF seven-story addition into a new residential facility.

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- **323 Speen Street Office Building**, Natick, Massachusetts. Renovation, recladding and structural and seismic upgrading of 155,000 SF former furniture showroom building into a modern retail center.
- **Saint Edward Tower**, Brockton, Massachusetts. Design of repairs to existing brick masonry and cast stone bell tower for the Archdiocese of Boston. Repairs included reinforcing steel structure and selective replacement and repair of cast stone pinnacles and roofing.
- **Louisburg Square**, Boston, Massachusetts. Services included a structural investigation of this historic landmark residence and design of an alternate structural system as part of an historic restoration.
- **Massachusetts State House and Lindemann/Hurley Building**, Boston, Massachusetts. Designed repairs to the State House iron gate and replacement of overhead garage doors, skylights and roofing for the Lindemann and Hurley Buildings.
- **US Airways Hangar—Logan Airport**, East Boston, Massachusetts. Structural and building envelope investigation, due diligence review and development of repair scope for a 150 ft. X 250 ft., 60 ft.-tall hanger building and its connected 26,000 SF, 2-story service building.
- **The Bushnell**, Hartford, CT. Services include review and analysis of the granite and masonry façade details, review of existing and proposed new roofing details and investigation of failed brick paving for the addition of this historic theater.
- **75-101 Federal Street**, Boston, Massachusetts. Structural and exterior envelope investigation and due diligence review, including development of repair scope for a 21-story vintage 1929 office building adjacent to an attached 1985 31-story office building addition.
- **Saint Margaret Parish**, Brockton, Massachusetts. Structural and building envelope investigation and development of repair scope for this brick masonry 1920 church and its tower for the Archdiocese of Boston.
- **Royal Sonesta Hotel**, Cambridge, Massachusetts. Structural and floor vibration investigation of a hotel addition housing central laundry and other heavy, dynamic equipment.
- **Copley Plaza Hotel**, Boston, Massachusetts. Investigation and repair of a variety of structurally failed building elements in this historic hotel.

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- ▶ BSCE, Tufts University, 1970
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- ▶ Registered Professional Engineer in Massachusetts, New Hampshire, Maine, Rhode Island and Kentucky

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- ▶ Member, American Concrete Institute
- ▶ Member, New England Chapter of ACI
- ▶ Professional Member, American Institute of Steel Construction

Representative Legal Assistance Assignments:

- **Investigation of Structural Design Deficiencies – Excessive Deflection of Two-Way Flat Slabs in 38-Story Residential Tower, Boston, MA.** Investigation, analysis and mediation presentation of structural design deficiencies. Resolution in favor of client during mediation.
- **Investigation of Construction Deficiencies – Conese Residence, Easton, CT.** Investigation and analysis of construction deficiencies and contractor schedule of values. Review of design and construction documents. Resolution prior to trial.
- **Investigation of Design Deficiencies – Fletcher Allen Health Care Underground Parking Structure, Burlington, VT.** Investigation and analysis of design deficiencies. Review of design and construction documents. Resolution prior to trial.
- **Investigation of Structural Design Deficiencies - Addition to Food Market Facility, Watertown, MA.** Ongoing investigation of structural design and construction administration deficiencies. Review of design and construction documents. Mediation presentation. Trial pending.
- **Investigation of Copper Flat-Seam Roofing – Existing Shipyard Facility, Portsmouth, NH.** 2006 investigation and evaluation of roofing design and construction deficiencies. Investigation, report and resolution.
- **Investigation of Construction Deficiencies – New Manufacturing Facility, Peabody, MA.** 2006 evaluation of structural design and construction deficiencies. Investigation, report and resolution.
- **Investigation of Wood-Framed Housing Project, Worcester, MA.** 2005 evaluation of structural design and construction deficiencies. Investigation, report and preparation for arbitration.
- **Multi-Disciplined Investigation of Parish Center Abandoned During Construction, Southbridge, MA.** 2004-2006 evaluation of egress, structural and building envelope design and construction deficiencies. Investigation, report and preparation for arbitration. Settled during mediation.

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- **Investigation of Concrete Paving – Shipping Docks at Distribution Center, Woburn, MA.** 2005 evaluation of construction deficiencies. Investigation, report and preparation for arbitration.
- **Investigation of Construction Documentation – John Adams Courthouse Renovation, Boston, MA.** 2005 evaluation of design documents and definition of roles of structural engineer of record on project. Presentation of findings during mediation.
- **Review of Structural Details and Documentation – Dispute between Steel Supplier and General Contractor – Town Square High Rise Office Complex, Hartford, CT.** 2005 evaluation of steel supplier claim. Investigation and resolution.
- **Investigation of Building Envelope Adequacy – Middlesex Hospital Laboratory Addition, Middletown, CT.** 2003-2004 evaluation of air infiltration and design of exterior cladding system for general contractor. Mediation with architect to avoid litigation.
- **Investigation of Structural Deficiencies – Complex of Three-Story Light Gauge Steel Framed Structures at a New Resort, Sosua Bay, Dominican Republic.** 2003-2004 evaluation of designed structural system to assist with defense of third-party engineer. Investigation and settlement during mediation.
- **Investigation of Structural and Building Envelope Damage (Explosion) – One-Story 300,000 SF Industrial Facility, Corbin, KY.** 2003-2004 evaluation of structural and building envelope damage after an explosion. Investigation and assistance with claim – litigation pending.
- **Precast Concrete Parking Structure Investigation – Two-Story 800,000 SF Parking Structure, Holyoke Mall at Ingleside, Holyoke, MA.** 2002-2005 investigation of failed connections and supports. Investigation and settlement prior to trial.
- **Precast Concrete Pile Investigation,** Undisclosed multi-story building, Cambridge, MA. 2002 investigation of concrete chemistry and possible deterioration of existing 15-year-old driven piles. Investigation and report.
- **Norwell Middle School Roofing Investigation,** Norwell Middle School, Norwell, MA. 2002 failure of proprietary underlayment system. Investigation and report.
- **Saint Monica Parish Roofing Investigation,** Saint Monica Church, Methuen, MA. 2002 failure of proprietary underlayment system. Investigation and report. Litigation pending.
- **Ritz Craft Manufacturing Concrete Floor Investigation,** Jonesville, MI. 2001-2002 investigation of concrete floor and paving slabs. Investigation and report.

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- **Bacon Field House West Wall Collapse**, Wesleyan University, Middletown, CT. 1995-1999 structural failure of unreinforced concrete masonry wall under sliding snow load. Expert testimony during arbitration.
- **Freeman Athletic Center Natatorium Roofing Failure**, Wesleyan University, Middletown, CT. 1996-1999 failure of roofing and vapor retarder system and decking under humid conditions. Expert testimony during arbitration.
- **Bacon Field House West Wall Waterproofing**, Wesleyan University, Middletown, CT. 1995-1999 failure of foundation waterproofing system. Expert testimony during arbitration.
- **60 Pine Street – Structural Design Review**, Vineyard Haven (Martha's Vineyard), MA. 1999 review of unusual structural system, found not in compliance with prevailing code. Investigation of concrete foundation and wood-framed superstructure construction. Report of findings. Expert testimony at civil trial.
- **Red Pony Barn – Structural Design Review**, Chilmark (Martha's Vineyard), MA. 1999 review of unusual structural system, found not in compliance with prevailing code. Investigation of design and report of findings. No trial.
- **Greenwich Hospital Addition - Roofing**, Greenwich, CT. 1998 failure of new roofing system. Assisted hospital general counsel by convincing subcontractor to make all required repairs and replacements.
- **One Bulfinch Place – Structural Investigation for the New Offices of Suffolk County District Attorney**, Boston, MA. 1997 investigation of inadequate structural repairs and reframing. Assisted Suffolk County District Attorney and his counsel by convincing structural engineer of record to redesign and make all required repairs and replacements.
- **Taft Elementary School – Structural and Foundation Repair**, Uxbridge, MA. 1995-1998 investigation of construction disputes. Failure of specialty foundation contractor to provide specified results. Failure to repair damage to structure caused during course of foundation repair work. Deposed. No trial.
- **Tisch Library Roofing Investigation**, Tufts University, Medford, MA. 1998 investigation of failed replacement roofing system. Assisted Tufts attorney by providing compromise solution to avoid litigation.
- **North Street Elementary School**, Tewksbury, MA. 1993-1996 investigation and evaluation of damage caused by failure of temporary roofing during reroofing operations. Deposed. No trial.

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